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Attorneys for Defendants  
Interscope Geffen A&M Records, a division of  
UMG Recordings, Inc., Universal Music Group,  
Inc. and Universal Music Corp.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JAY BRIAN BALLARD, and individual  
and KIM JONES, an individual,

Plaintiffs,

v.

MARY J. BLIGE, an individual,  
INTERSCOPE GEFEN A&M  
RECORDS, an entity of unknown form,  
UNIVERSAL MUSIC GROUP, INC., a  
Delaware corporation, UNIVERSAL  
MUSIC CORP., a Delaware corporation,  
DOES 1 through 20,

Defendants.

Case No. 2:CV08-8321 (ODW) (AJWx)

Honorable Otis D. Wright, II

**PROTECTIVE ORDER**

1 This Court finds that good cause exists for a Protective Order on the terms  
2 and conditions stipulated by the parties.

3 Therefore, IT IS ORDERED as follows:

4  
5 **1. DEFINITIONS**

6 1.1 As used herein, the term “Confidential Information” shall mean: (a)  
7 any type of information that has not been made generally available to the public and  
8 the disclosure of which the disclosing party or third party contends would cause  
9 serious harm to the disclosing party’s or third party’s business operations or  
10 interests, including, but not limited to, contracts for personal services, customer lists,  
11 customer data, costs of goods or services sold, manufacturing or other costs of doing  
12 business, employee salaries, marketing plans, financial performance data, sales  
13 records, inventory sheets, and manufacturing, product development, and business  
14 development strategies; (b) data derived from such Confidential Information,  
15 including any summaries, compilations, quotes, or paraphrases thereof; (c) any other  
16 oral, written, or recorded material that consists of or contains trade secrets (as  
17 defined in California Civil Code § 3426.1(d)) or other confidential research,  
18 development, or commercial information (as referred to in Fed. R. Civ. P.  
19 26(c)(1)(G)); or (d) any other information that the designating party reasonably  
20 believes (1) constitutes proprietary information, confidential business information,  
21 information that the designating party may need, for any business, employment or  
22 competitive purposes, to be protected from disclosure, trade secrets, and/or  
23 information in which the party or any third party has a privacy interest, or (2) is  
24 subject to protection from disclosure, or limitation upon disclosure, under applicable  
25 law.

26 1.2 As used herein, the terms “document,” “documents,” “tangible things,”  
27 “recordings,” and “photographs” mean documents, writings, tangible things,  
28 recordings, and photographs as defined in Fed. R. Civ. P. 34(a) and Fed. R. Evid.

1 1001, and include, but are not limited to, records, exhibits, reports, samples,  
 2 transcripts, video or audio recordings, disks, affidavits, briefs, summaries, notes,  
 3 abstracts, drawings, company records and reports, answers to interrogatories,  
 4 responses to requests for admissions, and motions, including copies or computer-  
 5 stored versions of any of the foregoing.

## 6 7 **2. DESIGNATION OF CONFIDENTIAL INFORMATION**

8 2.1 This PROTECTIVE ORDER applies to all discovery responses,  
 9 documents, testimony, and other information or materials containing Confidential  
 10 Information disclosed in this action that are designated by a party or third party as  
 11 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,  
 12 as defined below, whether such disclosure is by order of the Court or by response to  
 13 questions in a deposition, written interrogatories, requests for the production of  
 14 documents and other tangible things, requests for admission, Rule 45 subpoenas to  
 15 third parties, or any other discovery undertaken in this action.

16 2.2 Any party or third party responding to discovery in this action shall  
 17 have the right to designate any document, testimony, or other information or  
 18 material as “Highly Confidential – Attorneys’ Eyes Only.” “Highly Confidential –  
 19 Attorneys’ Eyes Only” information is information that the designating party  
 20 reasonably believes contains Confidential Information which reasonably requires for  
 21 its protection to be treated as “Highly Confidential – Attorneys’ Eyes Only.”

22 2.3 Such designation shall be accomplished by placing the notation  
 23 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
 24 ONLY” on every page of each document or portion thereof so designated. In the  
 25 case of Confidential Information disclosed in a non-paper medium (e.g., videotape,  
 26 audiotape, computer disks, etc.), the appropriate notation shall be affixed to the  
 27 outside of the medium or its container so as to clearly give notice of the designation.

1 Such designation is deemed to apply to the document itself and to the Confidential  
2 Information contained therein.

3 2.4 Confidential Information so designated shall be used only for the  
4 purposes of this litigation and may not be used by any party to whom or which that  
5 information is produced or disclosed for research, development, sales, marketing,  
6 publicity, or competitive purposes, or any other purpose. Confidential Information  
7 so designated shall not be disclosed to anyone other than those persons identified in  
8 Paragraphs 4.3 and 4.4, *infra*, except as may be ordered by the Court or agreed to in  
9 writing by the parties. If any information designated by a party or third party as  
10 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY  
11 is thereafter used by a party to whom or which it has been produced or disclosed as  
12 part of a paper filed or lodged with the Court in this action or in a response to a  
13 discovery request in this action, the party using that information shall take all  
14 reasonable steps to preserve the continued confidentiality of that designated  
15 Confidential Information. This includes maintaining the designation of  
16 confidentiality in all places where that information is so used and requesting that  
17 such information is filed or lodged with the Court under seal in accordance with the  
18 procedures of C.D. Cal. Local Rule 79-5.1.

19 2.5 The parties and any third parties responding to discovery in this action  
20 shall use reasonable care to avoid designating any materials as CONFIDENTIAL or  
21 HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY that are: (a) not  
22 entitled to such designation, or (b) generally available to the public.  
23

### 24 **3. DEPOSITIONS**

25 3.1 With respect to the examination of witnesses upon oral deposition,  
26 when designated Confidential Information is supplied to the deponent, or when the  
27 deponent’s testimony contains, reflects, or comments on designated Confidential  
28 Information, the deposition reporter and/or videotape operator shall be informed of

1 this PROTECTIVE ORDER by the party or third party seeking to invoke its  
 2 protection, and will be required to agree to be bound by its terms. The reporter  
 3 and/or videotape operator then shall place on the cover of any deposition transcript  
 4 or videotape that contains any designated Confidential Information the words  
 5 “CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A COURT  
 6 PROTECTIVE ORDER.” Counsel for the parties then shall take appropriate steps  
 7 to prevent any portions of any deposition transcript or videotape designated  
 8 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY  
 9 from being disclosed to any person, except as provided in this PROTECTIVE  
 10 ORDER.

11 3.2 Testimony at a deposition may be designated CONFIDENTIAL or  
 12 HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY if this PROTECTIVE  
 13 ORDER is invoked at the deposition by counsel for a party or third party or the  
 14 deponent. The designating party or third party also may, within thirty (30) days  
 15 after receiving a copy of the deposition transcript, provide all parties with a written  
 16 list of the page(s) of the deposition transcript, and any exhibits attached thereto, that  
 17 the party or third party designates as CONFIDENTIAL or HIGHLY  
 18 CONFIDENTIAL – ATTORNEYS’ EYES ONLY. If a deponent has disclosed  
 19 something at a deposition that a party or third party believes constitutes Confidential  
 20 Information and should be designated as such, the party or third party so believing  
 21 can go back during the deposition and designate that information as may be  
 22 appropriate.

23 3.3 Each deponent to whom any party or third party proposes to disclose  
 24 designated Confidential Information at a deposition, trial, or other proceeding shall  
 25 be given a copy of this PROTECTIVE ORDER and informed of its contents and the  
 26 parties shall take all reasonable steps to have such witnesses abide by the same.

27 3.4 If designated Confidential Information is to be discussed or disclosed in  
 28 a deposition, any party or third party claiming such confidentiality may exclude

from the room any person who is not entitled to receive such Confidential Information during that portion of the deposition in which the Confidential Information is actually discussed or disclosed. If designated Confidential Information is to be discussed or disclosed at a hearing or at trial, the parties may request that the Court exclude from the courtroom any person who is not entitled to receive such Confidential Information during that portion of the hearing or trial in which the Confidential Information is actually discussed or disclosed.

#### **4. DISCLOSURE OF DESIGNATED CONFIDENTIAL INFORMATION**

4.1 The parties, counsel for the parties, and all persons who view designated Confidential Information shall maintain all information designated as CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY in confidence and shall not disclose such information, directly or indirectly, to any person except as provided in this PROTECTIVE ORDER.

4.2 While the disclosure of Confidential Information designated CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY to persons not authorized by this PROTECTIVE ORDER could, by definition, be prejudicial to the business, operations, or interests of the designating party or third party, the designations should not be overused.

4.3 Access to Confidential Information designated as CONFIDENTIAL shall be limited to the following persons:

4.3.1 Outside and in-house counsel for the parties and their support personnel such as paralegal assistants, secretarial, stenographic and clerical employees and contractors, and outside copying services who are working on this litigation under the direction of such attorneys and to whom it is necessary that the materials be disclosed for purposes of this litigation.

1                   4.3.2           Bona fide experts and/or consultants (together with their  
2 clerical staff) retained by counsel of record on behalf of the parties for purposes of  
3 this litigation.

4                   4.3.3           Pursuant to Paragraphs 3.1 through 3.4, *supra*, deponents  
5 at their depositions. Counsel should have a good faith belief that such disclosure is  
6 necessary before disclosing designated Confidential Information to the deponent.

7                   4.3.4           Court reporter(s) employed in this litigation.

8                   4.3.5           The parties to this action, as well as current officers,  
9 directors, and employees of the parties to this action that are corporate entities.

10                  4.3.6           The Court and its staff, mediators used in settlement  
11 proceedings in this action and their staff, and members of a jury impaneled for a trial  
12 in this action.

13                  4.4    Access to Confidential Information designated as HIGHLY  
14 CONFIDENTIAL – ATTORNEYS' EYES ONLY shall be limited to the following  
15 persons:

16                  4.4.1           In-house counsel for the corporate parties to this action,  
17 attorneys of record in this proceeding, their partners and associates, and their  
18 support personnel such as paralegal assistants, secretarial, stenographic and clerical  
19 employees and contractors.

20                  4.4.2           Bona fide experts and/or consultants (together with their  
21 clerical staff) retained by counsel of record on behalf of the parties for purposes of  
22 this litigation.

23                  4.4.3           Pursuant to Paragraphs 3.1 through 3.4, *supra*, deponents  
24 at their depositions. Counsel should have a good faith belief that such disclosure is  
25 necessary before disclosing designated Confidential Information to the deponent.

26                  4.4.4           Court reporter(s) employed in this litigation.

27

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1                   4.4.5           The Court and its staff, mediators used in settlement  
2 proceedings in this action and their staff, and members of a jury impaneled for a trial  
3 in this action.

4           4.5    Nothing herein shall prohibit a party, or his or its counsel, from  
5 disclosing a document that contains Confidential Information to the person whom  
6 the document identifies as an author, addressee, or recipient of such document.

7  
8           **5.    CHALLENGING A DESIGNATION**

9           5.1    A party which disputes the propriety of a designation shall challenge  
10 such designation within a reasonable time after the materials are so designated. In  
11 the event that a party challenges such designation, the party shall provide written  
12 notice to the designating party of its disagreement with the designation. The parties  
13 shall first attempt to resolve the dispute in good faith and shall employ the  
14 procedures of Local Rules 37-1 through 37-4 to resolve that dispute. If the dispute  
15 cannot be resolved, the receiving party may apply to the Court for a ruling  
16 concerning the status of such material, and, pending such application and ruling, the  
17 receiving party shall treat such material as Confidential Information under this  
18 PROTECTIVE ORDER. Upon any hearing, the burden of proving that material has  
19 been properly designated is on the party making such designation.

20           5.2    For documents that any party might wish to file with the Court under  
21 seal, that party shall employ the procedures of Local Rule 79-5.1 and comply with  
22 the requirements of Section 9, *infra*.

23           5.3    No party shall be obliged to challenge the propriety of a designation,  
24 and a failure to do so shall not preclude a subsequent attack on the propriety of any  
25 other designation.



1           **6. INADVERTENT FAILURE TO DESIGNATE**

2           6.1    The inadvertent failure to designate Confidential Information as  
3 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY  
4 prior to or at the time of disclosure shall not operate as a waiver of a party’s or third  
5 party’s right to designate such information within thirty (30) days after such  
6 disclosure or, if the information is provided by a third party, within thirty (30) days  
7 after notice of such disclosure.

8           6.2    In the event that Confidential Information is designated as  
9 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY  
10 after disclosure but within the thirty (30) day period allowed under Paragraph 6.1,  
11 *supra*, the receiving party shall employ reasonable efforts to ensure that all  
12 previously disclosed Confidential Information is subsequently treated as  
13 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,  
14 as appropriate, pursuant to the terms of this PROTECTIVE ORDER.

15          6.3    Should any document or information designated as CONFIDENTIAL  
16 or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY be disclosed,  
17 through inadvertence or otherwise, to any person or party not authorized to see such  
18 materials under this PROTECTIVE ORDER, then the disclosing party or third party  
19 shall use its best efforts to bind such person to the terms of this PROTECTIVE  
20 ORDER, and the disclosing party shall: (a) promptly inform such person of all the  
21 provisions of this PROTECTIVE ORDER, and (b) identify the name, address,  
22 telephone number, employer, and title or position of such person immediately to the  
23 party or third party that or who designated the document.

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25           **7. CUSTODY AND DISPOSITION OF DESIGNATED**  
26           **CONFIDENTIAL INFORMATION**

27          7.1    Confidential Information designated CONFIDENTIAL or HIGHLY  
28 CONFIDENTIAL – ATTORNEYS’ EYES ONLY shall be maintained in the

1 custody of counsel for the parties, except for information in the custody of: (a) the  
 2 Court; (b) any court reporter transcribing testimony given in this action, for the  
 3 limited purpose of rendering his or her normal transcribing services; and (c)  
 4 consultants entitled to see such information under the terms of this PROTECTIVE  
 5 ORDER, to the extent necessary for their study, analysis, and preparation of the  
 6 case. Except for the Court, a person with custody of information designated  
 7 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY  
 8 shall maintain it in a manner that limits access to it to only those persons entitled  
 9 under this PROTECTIVE ORDER to examine it. Counsel may furnish information  
 10 designated CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’  
 11 EYES ONLY in written format to persons authorized under this PROTECTIVE  
 12 ORDER to receive it.

13 7.2 Unless counsel agree otherwise in writing, within sixty (60) days of the  
 14 conclusion of this litigation, whether by settlement or final, non-appealable decision  
 15 of the Court, the parties, counsel for the parties, and all other persons who are in  
 16 possession of documents designated CONFIDENTIAL or HIGHLY  
 17 CONFIDENTIAL – ATTORNEYS’ EYES ONLY agree that they will (a) destroy  
 18 or return to the producing party or third party all hard copy documents, other than  
 19 attorney work product, containing designated Confidential Information produced by  
 20 a party or third party; and (b) delete all electronically stored documents, other than  
 21 attorney work product, containing designated Confidential Information produced by  
 22 a party or third party. Notwithstanding the foregoing, neither the defendants to this  
 23 action nor their counsel shall have any obligation under this Protective Order to  
 24 ensure the destruction of any copies of electronically-stored Confidential  
 25 Information made by the automatic processes of their computer systems, including  
 26 but not limited to any such copies that may reside on their servers and/or backup  
 27 tapes.

1           7.3    Notwithstanding the foregoing, counsel of record and each party shall  
 2 be permitted to retain a file copy of all pre-trial, trial, and post-trial materials,  
 3 depositions and deposition exhibits, and document databases. Nothing in this  
 4 paragraph shall be construed to require any party to return or destroy work product  
 5 or attorney client privileged communications, whether from or to outside or in-house  
 6 counsel. Such file copies must be maintained under the conditions of maintaining  
 7 confidentiality as set forth in Paragraph 7.1, *supra*.

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 9           **8.    MISCELLANEOUS PROVISIONS**

10          8.1    Except as otherwise set forth in Paragraphs 8.5-8.7 regarding the  
 11 introduction and use of Confidential Information at trial and by the Court, and as  
 12 may be required by law or legal process, the obligations of confidentiality and  
 13 nondisclosure shall be effective and shall be respected by the parties and all persons  
 14 in any way involved in these proceedings or to whose attention Confidential  
 15 Information shall come unless and until otherwise ordered by the Court or stipulated  
 16 by all parties to this action. These obligations of confidentiality and nondisclosure  
 17 shall bind the parties through all proceedings in this action, including all appeals,  
 18 arbitrations, and proceedings upon remand, and shall survive the conclusion of this  
 19 action unless and until otherwise ordered by the Court, or until the parties to this  
 20 action stipulate that designated Confidential Information can be disclosed.

21          8.2    By entering into this PROTECTIVE ORDER, no party or third party  
 22 waives any objections it might have to the production of documents or information  
 23 covered by this PROTECTIVE ORDER.

24          8.3    No party to this action, by entering into this PROTECTIVE ORDER,  
 25 by designating certain information as CONFIDENTIAL or HIGHLY  
 26 CONFIDENTIAL – ATTORNEYS’ EYES ONLY, or by acquiescing in any other  
 27 party’s such designation, shall be deemed to have admitted or agreed that any such

1 designated information is, in fact, a trade secret or other confidential research,  
2 development, or commercial information.

3 8.4 The Court retains jurisdiction even after termination of this action to  
4 enforce this PROTECTIVE ORDER and to make such deletions from or  
5 amendments, modifications, and additions to the PROTECTIVE ORDER that the  
6 Court may from time to time deem appropriate. The parties hereto reserve all rights  
7 to apply to the Court at any time, before or after termination of this action, for an  
8 order modifying this PROTECTIVE ORDER or seeking further protection against  
9 disclosure or use of claimed Confidential Information.

10 8.5 Nothing contained herein shall restrict any party from introducing  
11 designated Confidential Information as evidence at trial. A party may seek a  
12 protective order prior to trial with respect to testimony containing designated  
13 Confidential Information that may be offered at trial or specific documents  
14 containing designated Confidential Information that may be marked as exhibits at  
15 trial in order to maintain the continued confidentiality of such information.

16 8.6 In general, court orders are available to the public. To the extent that a  
17 party refers to or relies upon material that is filed under seal in its pleadings, the  
18 pleadings must request that specific information be kept confidential. Absent the  
19 granting of such advance request, the Court may incorporate all evidence in its  
20 written and oral rulings.

21 8.7 In the event the case proceeds to trial, all information that was subject  
22 to the provisions of a protective order and that is used at trial will become public  
23 absent a separate court order upon motion and sufficient cause shown.

## 24 25 **9. FILING OR LODGING UNDER SEAL**

26 9.1 If any party or third party seeks to file or lodge with the Court any  
27 documents or things that contain designated CONFIDENTIAL or HIGHLY  
28 CONFIDENTIAL – ATTORNEYS' EYES ONLY, such materials shall be

submitted to the Court in accordance with the procedures set forth in C.D. Cal. Local Rule 79-5.1 for filing documents under seal. Where one party or third party wishes to file or lodge any documents or things with the Court under seal, the other party or parties shall not unreasonably withhold agreement to such filing or lodging under seal. If such agreement is provided, the parties shall submit to the Court a stipulation and proposed order for such filing or lodging under seal. If no such agreement is provided, then the filing or lodging party or third party shall submit an application and proposed order to the Court pursuant to C.D. Cal. Local Rule 79-5.1.

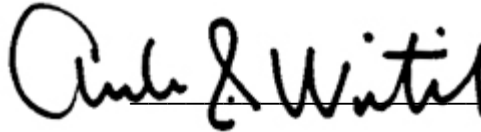
9.2 The person filing Confidential Information under C.D. Cal. Local Rule 79-5.1 shall designate to the Clerk that all or a designated portion thereof is subject to this PROTECTIVE ORDER and is requested to be kept under seal, except that upon the default of the filing party to so designate, any party may do so.

#### 10. GOOD CAUSE STATEMENT

Pursuant to Fed. R. Civ. P. 26(c), good cause exists for entry of this PROTECTIVE ORDER because the parties to this action: (1) have sought and expect to seek in the future the discovery of certain information in this action that is sensitive, private, and confidential, or that third parties required to get involved in discovery in this action might believe is sensitive, private, and confidential, including, but not limited to, (a) information concerning the amounts paid under and other terms in confidential contracts entered into by the parties with third parties, and the financial and other terms of contracts entered into by the parties that are competitively sensitive and that would harm the parties if such terms were disclosed to their competitor, (b) other information that constitutes proprietary information, confidential business information, information that a party or third party may need, for any business, employment or competitive purposes, to be protected from disclosure, (c) trade secrets, and/or information in which a party or any third party has a privacy interest, and (d) information that is subject to protection from

1 disclosure, or limitation upon disclosure, under applicable law; (2) believe that  
2 unrestricted disclosure or dissemination of such Confidential Information will cause  
3 them some business, commercial, and privacy injury; (3) desire an efficient and  
4 practicable means to designate such information as CONFIDENTIAL or HIGHLY  
5 CONFIDENTIAL – ATTORNEYS’ EYES ONLY and thereby help ensure its  
6 continued protection against unwarranted disclosure or dissemination; and (4) have  
7 agreed to such means as set forth herein.

8  
9 Date: June 3, 2010



10 Andrew J. Wistrich

11 U.S. Magistrate Judge  
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